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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,349	11/06/2003	Marc Bedard	SMB-6858	8116
26294 7590 06/13/2007 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			EXAMINER SNIDER, THERESA T	
			ART UNIT 1744	PAPER NUMBER
			MAIL DATE 06/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/702,349

Applicant(s)

BEDARD ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/5/2007</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "36" has been used to designate both suction hose(0018) and vacuum nozzle(0018). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 1, lines 11 and 15, 'a' should be replaced with 'the'.

Claim 7, line 3, 'a' should be replaced with 'the'.

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Claims 7-11, line 1, 'street' should be deleted to correspond with claim 1, line 1.

Claim 10, line 2, 'a pair' should be replaced with 'the pair'.

Claim 11, line 3, 'a' should be replaced with 'the'.

Claims 12 and 29, it is unclear as to what is being claimed. The claim begins, 'In a' leading one to believe it is in Jepson format however the claim is missing 'the improvement comprising'. The claim is missing any type of transitional phrase (comprising/comprising essentially of, ...) so it is not clear where the preamble ends and the body of the claim begins.

Claim 12, line 4, should 'of said container' be replaced with 'and said container'?

Line 6, 'the sweeper' lacks proper antecedent basis;

Line 10, 'a' should be replaced with 'the'.

Claim 16, line 2, 'a' should be replaced with 'the'.

Claims 17-18, line 1, 'street' should be deleted to correspond with claim 12, line 1.

Claim 19, lines 11 and 15, 'a' should be replaced with 'the'.

Claims 24-28, line 1, 'street' should be deleted to correspond with claim 19, line 1.

Claim 24, line 3, 'a' should be replaced with 'the'.

Claim 27, line 2, 'a' should be replaced with 'the'.

Claim 28, line 3, 'a' should be replaced with 'the'.

Claim 29, line 3, should 'of said container' be replaced with 'and said container'?

Line 5, 'the sweeper' lacks proper antecedent basis;

Line 9, 'a' should be replaced with 'the'.

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Claim 30, line 2, are the pairs of axle members in addition to the at least one axle member of claim 29 or one in the same?

Claim 32, line 2, 'a' should be replaced with 'the'.

Claims 33-34, line 1, 'street' should be deleted to correspond with claim 29, line 1.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-3, 9, 12-13, 18-20, 29 and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 88/09848 (and WO 87/01404, as disclosed on page 1).

WO 87/01404 discloses a sweeper body including a frame having an axle apparatus attached thereto (fig. 1, #12, fig. 4, #84, page 6, lines 14-27).

WO 87/01404 discloses a pair of steerable front wheels supported by the axle apparatus at a forward end of the body, the apparatus constructed to provide a space between the front wheels (fig. 2, #16, page 5, lines 12 and 26-27).

WO 87/01404 discloses a pair of rear wheels supported at a rear end of the body (fig. 2, #18).

WO 87/01404 discloses a container coupled to the body (fig. 1, #38).

WO 87/01404 discloses a suction hose extending between the container and nozzle proximal a forward end of the body and extending through the space (fig. 4, #36, 30, page 9, lines 17-19 and page 5, lines 25-26).

WO 87/01404 discloses a suction device for drawing debris from the nozzle into the container (page 9, lines 19-21).

WO 87/01404 discloses at least one brush coupled to a forward end of the body (fig. 1, #24).

With respect to claims 2, 13, 19-20 and 29, WO 88/09848 discloses the axle apparatus including a pair of axle members that define an elbow (fig. 1, elbows between #32,34 & 30,34; 30,32 are attached to #40,42 defining 'axle apparatus')

With respect to claims 9, 18, 26 and 34, WO 87/01404 discloses an operator's cab at the forward end of the body (fig. 2, #300).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 7 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 87/01404 as applied to claims 1 and 19, respectively above, and further in view of DE29613858.

WO 87/01404 discloses a similar sweeper vehicle however fails to disclose a roller apparatus for rolling the nozzle along a surface.

DE29613858 discloses a sweeper vehicle having a roller apparatus, on the nozzle, that extends forward of the sweeper body (fig. 1, #9,10). It would have been obvious to one of ordinary skill in the art to provide the roller apparatus of DE29613858 in WO 87/01404 to allow the nozzle to travel smoothly over undulating surfaces.

Allowable Subject Matter

8. Claims 4-6, 10-11, 14-17, 21-23, 27-28 and 30-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1 and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Romaniuk and Smith et al. disclose a vacuum sweeper vehicle with a vacuum nozzle supported on a roller apparatus. Öberg discloses a vacuum sweeper vehicle with a vacuum nozzle extending through the space between front wheels.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

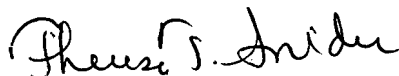
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**THERESA T. SNIDER
PRIMARY EXAMINER**

Theresa T. Snider
Primary Examiner
Art Unit 1744

6/4/2007